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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,998	12/01/2000	Ina Mitra	NHL-SCT-16	7293

432 7590 12/18/2002

NILS H. LJUNGMAN & ASSOCIATES  
P. O. BOX 130  
GREENSBURG, PA 15601-0130

EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 12/18/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No. 09/727,998		Applicant(s) MITRA ET AL.	
Examiner Elizabeth A. Bolden		Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \*   c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6, 10, 11</u> . | 6) <input type="checkbox"/> Other:  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the inventions are closely related to one another so that a search of Group I would result in a search of Group II. This is not found persuasive because the inventions are classified and must be searched in different classes and subclasses.

The requirement is still deemed proper and is therefore made FINAL.

Claims 19-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially" in claims 1 and 4-7 is a relative term, which renders the claims indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would

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not be reasonably apprised of the scope of the invention. The term "substantially" has not been defined to show how much a deviation from the claimed range is acceptable.

The term "precisely" in claim 8 is a relative term, which renders the claim indefinite. The term "precisely" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The units of precision have not been defined to render the term "precisely" definite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8-10, and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Paloschi et al., U.S. Patent 6,235,667.

Paloschi et al. disclose a glass comprising in weight percent: 50-58 SiO<sub>2</sub>, 0-12 K<sub>2</sub>O, 0-9 Na<sub>2</sub>O, 0-4 Li<sub>2</sub>O, 0-3 CaO, 0-4 MgO, 0-2 B<sub>2</sub>O<sub>3</sub>, 16-30 ZnO, 0-13 BaO, 0-6 TiO<sub>2</sub>, 0-5 ZrO<sub>2</sub>, 0-5 Y<sub>2</sub>O<sub>3</sub>, 0-3 Al<sub>2</sub>O<sub>3</sub>, 0-5 SnO<sub>2</sub>, 0-9 La<sub>2</sub>O<sub>3</sub>, 0-9 Nb<sub>2</sub>O<sub>5</sub>, 0-13 Bi<sub>2</sub>O<sub>3</sub>, 0-5 GeO<sub>2</sub>, and 0-1 Sb<sub>2</sub>O<sub>3</sub>. See Abstract of Paloschi et al. The reference discloses that Sb<sub>2</sub>O<sub>3</sub> and As<sub>2</sub>O<sub>3</sub> are added to refine the

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glass and total weight of refining and decolorizing agents can be up to 2 wt%. See column 5, lines 36-40. These ranges of components are sufficiently specific to anticipate the compositional limitations in claims 1, 2, 8-10, and 14-18. See MPEP 2131.03.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Paloschi et al. would inherently have the same refractive index, Abbe number and pure transmission at 400 nm as recited in claims 1 and 10. See MPEP 2112.

Claims 1-3, 5, 7, 8, 10, and 14-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tachibana et al., U.S. Patent 4,472,030.

Tachibana et al. discloses a glass comprising in weight percent of 32-56 SiO<sub>2</sub>, 6-25 K<sub>2</sub>O, 6-32 Cs<sub>2</sub>O, 0-30 BaO, 0-2.5 MgO, 5-34 ZnO, 0-3 ZrO<sub>2</sub>, and 0-5 SnO<sub>2</sub>. See abstract of Tachibana et al. The reference discloses that the glass may further comprise B<sub>2</sub>O<sub>3</sub>, Al<sub>2</sub>O<sub>3</sub>, Li<sub>2</sub>O, Na<sub>2</sub>O, Ta<sub>2</sub>O<sub>5</sub>, Sb<sub>2</sub>O<sub>3</sub>, Bi<sub>2</sub>O<sub>3</sub>, GeO<sub>2</sub>, CaO, SrO, PbO, La<sub>2</sub>O<sub>3</sub>, and As<sub>2</sub>O<sub>3</sub>. See column 4, lines 19-23. These ranges of compositional components are sufficiently specific to anticipate the compositional limitations of claims 1-3, 5, 7, 8, 10, and 14-18. See MPEP 2131.03.

Tachibana et al. disclose that the glass can be used for a light converging-type of optical lens. See column 1, lines 61-64.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Tachibana et al. would inherently have the same refractive index, Abbe number and pure transmission at 400nm as recited in claims 1, 5, 7, and 10. See MPEP 2112.

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Claims 1-6 and 10-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Speit, U.S. Patent 4,820,326.

Speit discloses a optical filter glass comprising in weight percent 52-71 SiO<sub>2</sub>, 2.9-16.8 PbO, 0.1-1.65 SnO<sub>2</sub>, 6.7-16.7 Na<sub>2</sub>O, 0.5-9.9 K<sub>2</sub>O, 13.3-18.3 Na<sub>2</sub>O+K<sub>2</sub>O, 0.1-4.4 NiO+CoO, 0.05-0.5 As<sub>2</sub>O<sub>3</sub>+Sb<sub>2</sub>O<sub>3</sub>, 0-8.6 Total RO, where R is Mg, Ca, Sr, Ba, 0-8.5 B<sub>2</sub>O<sub>3</sub>, 0-0.55 Al<sub>2</sub>O<sub>3</sub>, and 0-10.5 ZnO. See Abstract of Speit. These compositional ranges are sufficiently specific to anticipate the compositional limitations of claims 1-6 and 10-18. See MPEP 2131.03.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Speit would inherently have the same refractive index, Abbe number and pure transmission at 400nm as recited in claims 1, 4-6 and 10. See MPEP 2112.

Claims 1-3, 9-11, and 13-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ritze, U.S. Patent 4,106,946.

Ritze discloses an optical filter glass comprising in weight percent 40-63 SiO<sub>2</sub>, 8-30 alkali metal oxides, 14-30 ZnO, 0.9-9 TiO<sub>2</sub>, 0-9 B<sub>2</sub>O<sub>3</sub>, 0-2.5 P<sub>2</sub>O<sub>5</sub>, 0-1.5 Al<sub>2</sub>O<sub>3</sub>, 0-2 F, 0-2 CdO, 0-2.5 CdTe, 0-1.65 ZnS, 0-2.0 CdS, 0-0.9 S, 0-0.9 Se, 0-0.8 As<sub>2</sub>S<sub>3</sub> and/or As<sub>2</sub>S<sub>4</sub>, 0-0.5 Sb<sub>2</sub>S<sub>3</sub> and/or Sb<sub>2</sub>S<sub>5</sub>, 0-6 MgO, 0-15 CaO, 0-8 BaO, and 0-12 SrO. See Abstract of Ritze. These compositional ranges are sufficiently specific to anticipate the compositional limitations of claims 1-3, 9-11 and 13-18. See MPEP 2131.03.

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Ritze would inherently have the same refractive index, Abbe number and pure transmission at 400nm as recited in claims 1 and 10. See MPEP 2112.

***Conclusion***


The additional references cited on the 892 have been cited as art of interest since they are cumulative to or less than the art relied upon in the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB  
December 10, 2002

  
DAVID SAMPLE  
PRIMARY EXAMINER